

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:05CR202

UNITED STATES OF AMERICA)

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vs.

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WILLIAM RICHARD MAXWELL)

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ORDER

THIS MATTER is before the Court on the Defendant's motion to return property which is opposed by the Government.

The Court has considered the submissions of the Defendant and finds that he either did file a claim or attempted to do so. Through no fault of the Defendant, a claim may not have been filed. However, based on the facts presented, the Court will deem a claim to have been timely filed by the Defendant. This matter should, therefore, proceed as a forfeiture proceeding in which a claim has been filed. Because such a claim is deemed filed, the Court will not grant the motion to return the property at this point.

IT IS, THEREFORE, ORDERED that the Defendant's motion to return property is hereby **DENIED** without prejudice;

IT IS FURTHER ORDERED that the Defendant is deemed to have timely filed a claim in this forfeiture proceeding, thus, no forfeiture has yet occurred; and

IT IS FURTHER ORDERED that the parties shall proceed according to 18 U.S.C. § 983.

Signed: July 11, 2006

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

